

STATE OF NEW YORK

8842--A

IN SENATE

April 22, 2022

Introduced by Sens. HOYLMAN, COONEY, HINCHEY, JACKSON, MAY, REICHLIN-MELNICK, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, the executive law, the civil practice law and rules, the criminal procedure law, the education law, the public health law and the insurance law in relation to gender affirming care

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The family court act is amended by adding a new section 659
2 to read as follows:

3 § 659. Consideration of law allowing gender affirming care. 1. A law
4 of another state that authorizes a child to be removed from their parent
5 or guardian based on the parent or guardian allowing their child to
6 receive gender affirming care shall not be enforced or applied in a case
7 pending in a court in this state.

8 2. No court in this state shall admit or consider a finding of abuse
9 based on the parent or guardian allowing their child to receive or seek
10 gender affirming care as evidence in any proceeding with respect to that
11 parent or guardian and any of their children, unless such conduct would
12 constitute abuse under the laws of this state if it occurred in this
13 state.

14 § 2. The executive law is amended by adding a new section 837-x to
15 read as follows:

16 § 837-x. Cooperation with certain out-of-state investigations. No
17 state or local law enforcement agency shall cooperate with or provide
18 information to any individual or out-of-state agency or department
19 regarding the provision, seeking, or assistance in provision or seeking
20 of lawful gender affirming care performed in this state. Nothing in this
21 section shall prohibit the investigation of any criminal activity in
22 this state which may involve the performance of gender affirming care
23 provided that no information relating to any medical procedure performed

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD15412-02-2

1 on a specific individual may be shared with an out-of-state agency or
2 any other individual.

3 § 3. Section 3119 of the civil practice law and rules is amended by
4 adding a new subdivision (h) to read as follows:

5 (h) Subpoenas related to gender affirming care. Notwithstanding any
6 other provisions of law, no court or county clerk shall issue a subpoena
7 under this section in connection with an out-of-state proceeding relat-
8 ing to any gender affirming care which was legally performed, sought,
9 received, or supported in this state, unless such out-of-state proceed-
10 ing (1) sounds in tort or contract, or is based on statute, (2) is
11 actionable, in an equivalent or similar manner, under the laws of this
12 state, and (3) was brought by the patient who received the gender
13 affirming care, or the patient's legal representative.

14 § 4. Subdivision (e) of section 3102 of the civil practice law and
15 rules, as amended by chapter 219 of the laws of 2022, is amended to read
16 as follows:

17 (e) Action pending in another jurisdiction. Except as provided in
18 section three thousand one hundred nineteen of this article, when under
19 any mandate, writ or commission issued out of any court of record in any
20 other state, territory, district or foreign jurisdiction, or whenever
21 upon notice or agreement, it is required to take the testimony of a
22 witness in the state, he or she may be compelled to appear and testify
23 in the same manner and by the same process as may be employed for the
24 purpose of taking testimony in actions pending in the state. The supreme
25 court or a county court shall make any appropriate order in aid of
26 taking such a deposition; provided that no order may be issued under
27 this section in connection with an out-of-state proceeding relating to
28 any abortion services or procedures or gender affirming care which were
29 legally performed in this state, unless such out-of-state proceeding (1)
30 sounds in tort or contract, or is based on statute, (2) is actionable,
31 in an equivalent or similar manner, under the laws of this state, and
32 (3) was brought by the patient who received reproductive healthcare, or
33 the patient's legal representative.

34 § 5. Section 140.10 of the criminal procedure law is amended by adding
35 a new subdivision 3-b to read as follows:

36 3-b. A police officer may not arrest any person for performing or
37 aiding in the performance of gender affirming care within this state, or
38 in procuring or aiding in the procurement of gender affirming care in
39 this state, if the gender affirming care is performed in accordance with
40 the provisions of any other applicable law of this state.

41 § 6. The criminal procedure law is amended by adding a new section
42 570.19 to read as follows:

43 § 570.19 Extradition of gender affirming care providers, seekers,
44 parents, guardians, and helpers.

45 No demand for the extradition of a person subject to criminal liabil-
46 ity that is in whole or part based on the alleged provision or receipt
47 of, support for, or any theory of vicarious, joint, several or conspira-
48 cy liability for gender affirming care lawfully performed in New York
49 shall be recognized by the governor unless the executive authority of
50 the demanding state shall allege in writing that the accused was present
51 in the demanding state at the time of the commission of the alleged
52 offense, and that thereafter he, she or they fled from that state.

53 § 7. Subdivision 1 of section 6531-b of the education law is amended
54 by adding a new paragraph (c) to read as follows:

1 (c) "Gender affirming care" means any type of care provided to an
2 individual who has sought and initiated that care to affirm their gender
3 identity or gender expression.

4 § 8. Subdivision 2 of section 6531-b of the education law, as added by
5 chapter 220 of the laws of 2022, is amended to read as follows:

6 2. The performance, recommendation, or provision of any reproductive
7 health services or gender affirming care, as defined in subdivision one
8 of this section, by a health care practitioner acting within their scope
9 of practice, for a patient who resides in a state wherein the perform-
10 ance, recommendation, or provision of such reproductive health services
11 is illegal, shall not, by itself, constitute professional misconduct
12 under this title, or title two-A of article two of the public health
13 law, or any other law, rule or regulation governing the licensure,
14 certification, or authorization of such practitioner, nor shall any
15 license, certification or authorization of a health care practitioner be
16 revoked, suspended, or annulled or otherwise subject to any other penal-
17 ty or discipline provided in the public health law or this title solely
18 on the basis that such health care practitioner performed, recommended,
19 or provided any such reproductive health services or gender affirming
20 care for a patient who resides in a state wherein the performance,
21 recommendation, or provision of such reproductive health services or
22 gender affirming care is illegal.

23 § 9. Subdivision 9-c of section 230 of the public health law, as added
24 by chapter 220 of the laws of 2022, is amended to read as follows:

25 9-c. (a) Neither the board for professional medical conduct nor the
26 office of professional medical conduct shall charge a licensee, acting
27 within their scope of practice, with misconduct as defined in sections
28 sixty-five hundred thirty and sixty-five hundred thirty-one of the
29 education law, or cause a report made to the director of such office to
30 be investigated beyond a preliminary review as set forth in clause (A)
31 of subparagraph (i) of paragraph (a) of subdivision ten of this section,
32 where such report is determined to be based solely upon the performance,
33 recommendation, or provision of any reproductive health services or
34 gender affirming care, as defined in section sixty-five hundred thirty-
35 one-b of the education law, for a particular patient by such licensee
36 where such patient resides in a state wherein the performance, recommen-
37 dation or provision of such reproductive health services is illegal.

38 (b) When a licensee, acting within their scope of practice, and in
39 accordance with paragraph e of subdivision four of section sixty-five
40 hundred twenty-seven of the education law, performs, recommends or
41 provides any reproductive health services for a patient who resides in a
42 state wherein the performance, recommendation, or provision of any such
43 reproductive health services or gender affirming care is illegal, such
44 performance, recommendation, or provision of such reproductive health
45 services or gender affirming care for such patient, shall not, by
46 itself, constitute professional misconduct. The licensee shall other-
47 wise abide by all other applicable professional requirements.

48 § 10. Section 6505-d of the education law, as added by chapter 220 of
49 the laws of 2022, is amended to read as follows:

50 § 6505-d. Evaluation of prior disciplinary history for authorization
51 to practice. An applicant seeking licensure, certification, or authori-
52 zation pursuant to this title who has been subject to disciplinary
53 action by a duly authorized professional disciplinary agency of another
54 jurisdiction solely on the basis of having performed, recommended, or
55 provided an abortion pursuant to section twenty-five hundred ninety-
56 nine-bb of the public health law, or gender affirming care shall not be

1 denied such licensure, certification, or authorization, unless the
2 department determines that such action would have constituted profes-
3 sional misconduct in this state. Provided however, that nothing in this
4 section shall be construed as prohibiting the department from evaluating
5 the conduct of such applicant and making a determination to be licensed,
6 certified, or authorized to practice a profession under this title.

7 § 11. Subdivision 1 of section 3436-a of the insurance law, as added
8 by chapter 221 of the laws of 2022, is amended to read as follows:

9 1. Adverse action against legal reproductive health care or gender
10 affirming care. Every insurer which issues or renews medical malprac-
11 tice insurance covering a health care provider licensed to practice in
12 this state shall be prohibited from taking any adverse action against a
13 health care provider solely on the basis that the health care provider
14 performs an abortion or provides reproductive health care or gender
15 affirming care that is legal in the state of New York on someone who is
16 from out of the state. Such policy shall include health care providers
17 who legally prescribe abortion medication to out-of-state patients by
18 means of telehealth.

19 § 12. This act shall take effect immediately.